

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

1020 S. Spring Street
PO Box 4187
Springfield, Illinois 62708-4187
217/782-4141
Fax: 217/782-5959

James R. Thompson Center
100 W. Randolph Street, Ste 14-100
Chicago Illinois 60601-3232
312/814-6440
Fax: 312/814-6485



BOARD MEMBERS
Jesse Smart, Chairman
Wanda Rednour, Vice Chairman
Patrick Brady
John Keith
William McGuffage
Albert Porter
Bryan Schneider
Robert Walters

EXECUTIVE DIRECTOR
Daniel W. White
December 22, 2006

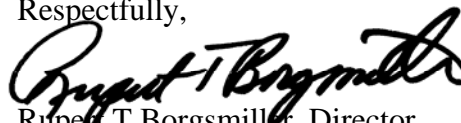
Dear Political Committee:

This letter is to make you aware of two proposed changes to the State Board of Elections Rules and Regulations. The first proposed change is the addition of a new section, *Section 100.125*, entitled *Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures*. This new Section establishes procedures to determine under what circumstances a disclosure report is considered to be timely filed when sent by mail, but received by the Board after the filing deadline. The second proposed change is an amendment to *Section 100.150*, entitled *Electronic Filing of Reports*. This change clarifies when a disclosure report is considered to be a valid filing if filed on paper when required to be filed electronically, and when such paper report is considered a non-filing subject to late penalties. The proposed amendments follow this letter (changes/additions are underlined).

The State Board of Elections is accepting public comment on the proposed amendments through January 31, 2007. All comments should be directed in writing to the General Counsel's office. If you have any questions or need further clarification, please feel free to contact the Campaign Disclosure Division at 217-782-4141.

In a separate matter, amended rules clarifying the filing requirements for Nonprofit Organizations went into effect November 3, 2006. These new rules may be found by clicking on Campaign Disclosure on the Board of Elections website.

Respectfully,


Rupert T Borgsmiller, Director
Division of Campaign Disclosure

Section 100.125 Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures

- a) Pre-election and semiannual reports of campaign contributions and expenditures must be received by the Board within the filing periods set forth in Section 9-10 of the Election Code. Subject to subsections (b) and (c) of this Section, if the reports are filed by mail and received by the Board after the filing deadline, they shall be considered delinquent and subject to penalties as provided in Section 9-10 of the Election Code and 26 Ill. Adm. Code 125.425. However, pursuant to Section 9-10(b) and (c) of the Election Code, if the envelope containing the reports contains a postmark showing that the envelope was mailed at least 72 hours prior to the due date, the reports shall be considered timely filed, regardless of when received in the office of the State Board of Elections.
- b) If the envelope containing either of the Reports named in subsection (a) of this Section is not received by the Board, the envelope is received but does not have a postmark printed by the United States Postal Service, or if the postmark is illegible, the report will either be deemed to have not been received or deemed to have been received on the date the envelope officially arrives in the office of the State Board of Elections. However, if the political committee is assessed a civil penalty for failing to file or delinquently filing either of the reports and, as part of the committee's appeal of the civil penalty assessment, it is alleged by the treasurer, chairman or candidate on a signed and notarized affidavit verifying that the report was mailed more than 72 hours prior to the filing deadline, and this is the first time the committee has made this claim as part of its appeal, the presumptive date of receipt will be rebutted by the testimony contained in the affidavit and the report will be deemed to have been timely received.
- c) When the committee raises the defense described in subsection (b) as part of its appeal for any subsequent civil penalty assessments, the appeal affidavit shall be accompanied by a certificate issued by the United States Postal Service showing the date on which the envelope was deposited with the United States Postal Service. The Board shall not consider this defense as valid in the absence of the certificate.
- d) When a political committee raises the defense described in subsection (b) at any time after an appeal has been granted pursuant to subsection (b), that defense shall be denied without consideration by the Board unless a certificate, issued by the United States Postal Service, verifying the date upon which the transmitting envelope was deposited with the United States Postal Service, is attached to the appeal affidavit. If the certificate is attached to the appeal affidavit, the Board shall hear and determine the appeal as it deems appropriate.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 100.150 Electronic Filing of Reports

- a) The State Board of Elections will make software available to committees required to report electronically under 10 ILCS 5/9-28.
- b) Once a committee exceeds the threshold that requires it to report electronically, it must continue thereafter to report electronically until it dissolves, whether or not its accumulation, receipts or expenditures fall beneath the levels set by statute for mandatory electronic filing.
- c) Once a committee is required to file its reports electronically under Section 9-28 of the Election Code, it must continue to file all reports (semiannual, amended semiannual, pre-election, amended pre-election, final, amended final, Schedule A-1) electronically, except as follows:
 - 1) A paper report shall be considered a timely filing if it is received by the Board on or before the filing deadline, provided that it covers the initial reporting period during which the mandatory electronic filing threshold is exceeded and that the report is filed electronically within 30 days after receipt of notice from the Board that this report was required to have been filed electronically. If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
 - 2) A paper report shall be considered a non-filing if the committee has previously received the notification referred to in subsection (c)(1). If the report is not filed electronically by the filing deadline, it shall be considered as having never been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue until such time as it is filed electronically.
 - 3) A paper report shall be considered a timely filing if at least one previous report was required to have been filed electronically and the committee had never been notified by the Board that it was required to electronically file its reports, provided that the report is filed electronically within 30 days after the notification referred to in subsection (c)(1). If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
 - 4) A paper report shall be considered a timely filing if it is received on or before the filing deadline and the committee has never exceeded the \$10,000 threshold requiring the electronic filing of its reports, regardless of whether the committee filed a previous reports electronically.
 - 5) If a committee is assessed a civil penalty for delinquent filing a report required to be filed electronically and, in the course of its appeal, raises the defense that computer related issues (including, but not limited to, software, firewalls, system failures) prohibited the timely filing of an electronic report, the Board may consider that defense when determining the final outcome of the appeal.

(Source: Amended at 31 Ill. Reg. _____, effective _____)